

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN DAVID PAMPLIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49171

**FILED**

**AUG 09 2007**

ORDER OF AFFIRMANCE

ANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *e. Alvarado*  
DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

On October 4, 2002, the district court convicted appellant, pursuant to a guilty plea, of one count of first degree murder and two counts of child abuse resulting in substantial bodily harm. The district court sentenced appellant to serve a term of life in the Nevada State Prison with the possibility of parole after twenty years for the murder count and two consecutive terms of forty-eight to one hundred and twenty months for the child abuse counts. No direct appeal was taken.

On January 26, 2007, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On March 16, 2007, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that the guilty plea agreement did not specify the degree of murder or the minimum and maximum sentences, the district court never reviewed the evidence to determine the degree of murder, and the district court did not apply any

mitigating circumstances. Appellant claimed that these errors caused his sentence to be illegal.

A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum.<sup>1</sup> "A motion to correct an illegal sentence presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in proceedings that occur prior to the imposition of sentence."<sup>2</sup>

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's sentence was facially legal and there is no indication in the record on appeal that the district court was not a competent court of jurisdiction in this case.<sup>3</sup> Contrary to appellant's contention, a review of the record on appeal establishes that appellant entered a guilty plea to first degree murder. During the guilty plea canvass, appellant's trial counsel specified that appellant was entering a guilty plea to first degree murder, and when asked if he was entering a guilty plea to first degree murder, appellant answered in the affirmative. It was further discussed during the guilty plea canvass that appellant would stipulate to a life sentence with the possibility of parole after twenty years had been served. The written

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<sup>1</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

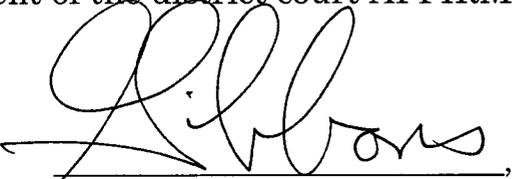
<sup>2</sup>Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

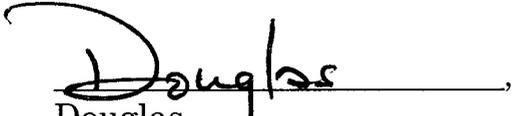
<sup>3</sup>See NRS 200.030(4)(b)(2); NRS 200.508(1)(a)(2).

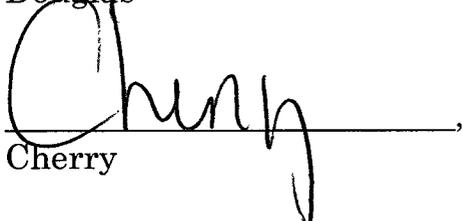
guilty plea agreement further specified the penalties for first degree murder. To the extent that appellant challenged the validity of his guilty plea, his challenge fell outside the scope of claims permissible in a motion to correct an illegal sentence. Therefore, we affirm the order of the district court.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>4</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Lee A. Gates, District Judge  
John David Pamplin  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

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<sup>4</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).